

1. Did the decedent at any time possess a general power of appointment under s. 72.01(17) and s. 2041 IRC?
2. Did the decedent at any time possess a limited or restricted power of appointment under s. 72.28(1)(e)2 and s. 2041 IRC?
3. Did the decedent at any time during life or at death, by will or otherwise, totally or partially exercise or totally or partially release any general power of appointment under question 1?
4. Were there in existence at the time of the decedent's death any trusts not created by decedent under which decedent possessed any power, beneficial interest, or trusteeship?

[illegible]

INSTRUCTIONS FOR SCHEDULE H - POWERS OF APPOINTMENT

Report on Schedule H any interest of the decedent in a trust in which the decedent had any power of appointment.

Indicate / furnish:

- Name of trust and federal I.D. number
- Copy of trust instrument
- Schedule of assets at death
- Values at date of death

If the decedent's interest is classified in all, or in part, as marital property use the "Marital Property" column to report that interest. See the instructions to Schedule MP - MARITAL PROPERTY DECLARATION for additional information on reporting marital property interests. Use the "Other Property" column to report the value of any property not classified as marital property.

Definition of a power of appointment. A power of appointment as defined in s. 2041, 1954 Internal Revenue Code, as amended, is includable for inheritance tax purposes. A general "Power of Appointment" is a power which is exercisable in favor of the decedent, the decedent's estate, the decedent's creditors, or the creditors of the decedent's estate. All transfers conveying a lesser power of appointment are regarded as restricted or limited powers and are reportable but not includable in the grantee's estate. For further information see s. 2041 of the Internal Revenue Code and regulations.

Date power created. A power of appointment created by will is considered created on the date of the testator's death. A power of appointment created by an inter-vivos instrument is considered created on the date the instrument takes effect. If the holder of a power exercises it by creating a second power, the second power is considered created at the time of the exercise of the first.

Distribution of a power

General power: In the estate of the creator/donor of the power, a general power is "distributed" to and taxed to the

grantee/donee of the power. In the grantee's/donee's estate, the assets over which the grantee/donee received a general power are "distributed" to and taxed to the person(s) who actually receive(s) either by the exercise or nonexercise of the power. A general power, once received, is recognized for tax purposes as the equivalent to the sole ownership of the property by the grantee/donee. If the power is exercised or released, wholly or in part, so that all or a part of the property subject to the power is transferred without the retention of any interest by the grantee/donee, the transfer is recognized as a completed gift and subject to the gift tax. If the power is exercised or released, wholly or in part with the grantee/donee retaining any interest in the property, the transfer is incomplete and the property subject to the power is includable in the estate of the grantee / donee and distributed to the persons entitled to receive the property pursuant to the exercise or release.

Restricted power. In the estate of the creator / donor of the power, a restricted power is "distributed" to and taxed to the person(s) having a right to receive the assets over which the grantee/donee possesses the power. Whenever it cannot be determined who will receive the assets in the estate of the creator/donor, the power is "distributed" to and taxed to the one person in the class entitled to receive that will result in the greatest tax. When the actual distribution is known, the inheritance tax is redetermined in the estate of the creator / donor of power, as of the date of the creator's /donor's death with the distribution and tax to the person(s) who actually receive(s) the property. Any refund based upon the redetermination is paid with interest at the legal rate. The existence of this limited power is disclosed in the estate of the grantee / donee (question 2 of Schedule H), but no value is includable in the grantee's/donee's estate.

Supplemental data. If the decedent ever possessed a power of appointment, attach a copy of the instrument, with amendments, granting the power and a copy of the instrument by which the power was exercised or released. Attach copies of the instruments even when it is not considered to be a taxable power.